

HOUSE BILL REPORT

HB 1534

As Reported by House Committee On:
Agriculture & Natural Resources

Title: An act relating to local utility district response to well notification.

Brief Description: Concerning local utility district response to well notification.

Sponsors: Representatives Upthegrove, Takko and Williams.

Brief History:

Committee Activity:

Agriculture & Natural Resources: 1/29/09, 1/30/09; 1/22/10 [DPS].

Brief Summary of Substitute Bill

- Prohibits the use of a new permit-exempt well for the purpose of watering a lawn or a noncommercial garden not exceeding one-half acre in area without first notifying the water purveyor of the group A water system.
- Prohibits construction of a new permit-exempt well only after the water purveyor of the group A water system determines the water system is unable or unwilling to provide water service to the property in a reasonable and timely manner.
- Allows any person aggrieved by a determination of the water purveyor of the group A water system to obtain a review of that decision with the Pollution Control Hearings Board.
- Prescribes penalties.
- Allows an exemption for the group A water system purveyor's that do not want to participate in the requirements of this act.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Blake, Chair; Ormsby, Vice Chair; Jacks, Liias, McCoy, Nelson, Rolfes and Van De Wege.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 5 members: Representatives Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kretz, Pearson and Warnick.

Staff: Jaclyn Ford (786-7339).

Background:

The Water Well Construction Act.

The Water Well Construction Act (WWCA) governs the design, construction, alteration, and decommissioning of water wells and resource protection wells in this state. The Department of Ecology (DOE) regulates well design, construction, and maintenance.

Under the WWCA, it is unlawful: (1) to supervise, construct, alter, or decommission a well without complying with all applicable laws and rules; (2) for any person to cause a well to be constructed in violation of the standards for well construction; (3) for a prospective water well owner to have a water well constructed without first obtaining a water right permit, if a permit is required; (4) for any person to construct, alter, or decommission a well unless all required fees have been paid; (5) for a person to tamper with or remove a well identification tag except during well alteration; and (6) for any person to contract to engage in the construction of a well or to act as a well operator without first obtaining a license.

The penalty for a major violation of the WWCA is between \$5,000 and \$10,000.

The Pollution Control Hearings Board.

The Pollution Control Hearings Board (PCHB) hears appeals from orders and decisions made by the DOE, local conservation districts, local air pollution control boards, and local health departments. There are three members on the PCHB. Appeals involving a penalty of less than \$5,000 may be heard by one member of the PCHB. The PCHB also has alternative procedures to expedite these smaller cases. If the PCHB decision is appealed, the Attorney General's Office becomes the primary point of contact between the parties. All appealed cases are assigned to a specific Assistant Attorney General.

Group A Water System.

A "group A water system" is a system with 15 or more service connections, regardless of the number of people, or a system serving an average of 25 or more people per day for 60 or more days within a calendar year, regardless of the number of service connections.

Summary of Substitute Bill:

It is unlawful for a new permit-exempt well to be constructed within a group A water system service area for the purpose of watering a lawn or a noncommercial garden not exceeding one-half acre in area without first notifying the water purveyor of the group A water system. After verifying the purpose of use for the well, the water purveyor of the group A water system must then provide written confirmation to the driller that the water system is either: (1) unable or unwilling to provide water service to the property in a reasonable and timely manner; or (2) able and willing to provide water service to the property in a reasonable and

timely manner. The water purveyor of the group A water system must respond within 10 days of receiving the notification of the intent to drill a permit exempt well. Construction of a water well may commence only after the water purveyor of the group A water system determines the water system is unable or unwilling to provide water service to the property in a reasonable and timely manner.

Violations of these requirements constitute a major violation.

The driller must submit a copy of the written confirmation from the water purveyor to the DOE concurrently with the DOE's required notice of intent to drill form.

Water purveyors of a group A water system must provide notice of these requirements to customers in their jurisdiction, including information easily accessible on their web site.

A water purveyor of a group A water system may also elect to exempt their jurisdiction from these requirements. If a water purveyor chooses to exempt their jurisdiction, the water purveyor must provide notice of the exemption to customers in their jurisdiction, including placing a notice of their exemption easily accessible on their web site.

Any person aggrieved by a determination of the water purveyor of the group A water system may obtain a review of that decision with the Pollution Control Hearings Board within 30 days of the date of the determination by the water purveyor of the group A water system.

Substitute Bill Compared to Original Bill:

The substitute bill adds the following:

- a review of the group A water system purveyor's decision with the Pollution Control Hearings Board;
- an exemption for the group A water system purveyor's that do not want to participate in the requirements of this act;
- notice requirements for the group A water system;
- increased penalties for failure to comply with the requirements of this act;
- a requirement for drillers to submit an intent to drill form to the group A water system purveyor; and
- a requirement that the group A water system purveyor respond to the driller within 10 days after receiving the intent to drill form.

Appropriation: None.

Fiscal Note: Requested on January 22, 2010.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 6 which reinstates prior law relating to the Pollution Control Hearings Board after a scheduled expiration and takes effect June 30, 2019.

Staff Summary of Public Testimony:

See Committee records from 2009.

Persons Testifying: See Committee records from 2009.

Persons Signed In To Testify But Not Testifying: See Committee records from 2009.